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United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Utah State Office

P.O. Box 45155

Salt Lake City, UT 84145-0155

<http://www.blm.gov>

**TAKE PRIDE
IN AMERICA**

Q

JUL 28 2009

IN REPLY REFER TO:

3480

UT (923)

UTU-38727

UTU-61049

Certified Mail-- Return Receipt Requested 7008 1140 0000 3706 0881

C.O.P. Coal Development Company

J. O. Kingston

53 West Angelo Avenue

Salt Lake City, UT 84115

Re: Non Payment of Royalties, Federal Coal Lease UTU-38727 and UTU-61049 for June 2009.

NOTICE OF NONCOMPLIANCE

The Bureau of Land Management (BLM) is issuing this Notice of Non-compliance to C.O.P. Development (Lessee) for failure to comply with Section 2 (a) Production Royalties of the referenced Federal Leases. The Minerals Management Service has notified BLM on June 29, 2009, of the non-payment according to the Table of Royalties Due found at Enclosure 1.

Requirements to Correct the Mining Plan Noncompliance:

Within 15 days of the date of the certified receipt of this letter, C.O.P. Development must make written, certified contact the Mineral Management Service (MMS) in writing, at:

Solid Minerals & Geothermal Compliance Asset Management

Attn: John J. Hovanec, Program Manager

P.O. Box 25165, MS390B2

Denver, Colorado 80225-0165

303-231-3312.

This written certified contact will be made to make arrangements for payment of the federal royalties owed. BLM must receive a copy of the certified letter to MMS from C.O.P. Development within 30 days of certified receipt of this letter by C.O.P. Development.

RECEIVED

JUL 29 2009

DIV. OF OIL, GAS & MINING

Compliance: Failure to comply with this Notice of Non-Compliance could result in further action by BLM and MMS which may include but not be limited to, lease bond forfeiture and/or lease cancellation proceedings.

Appeal Rights:

There are two compliance periods for this Notice of Non Compliance, as specified above, you have 15 and 30 days from the receipt of this notice to come into compliance. Following the compliance period, you then have 30 calendar days to appeal to the Board of Land Appeals, Office of the Secretary, in accordance with the regulation at 43 CFR Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office within 30 calendar days following at the end of the compliance period. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993) for a stay of the effectiveness of this decision during the time that you appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and the petition for a stay must also be submitted to the Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards;

- (1) The relative harm to the parties if a stay is granted or denied;
- (2) The likelihood of the appellant's success on the merits;
- (3) The likelihood of the immediate and irreparable harm if the stay is not granted, and;
- (4) Whether the public interest favors granting the stay.

If you have any questions, please contact either Stan Perkes (801-539-4036) myself at (801-539-4038).

Jeff McKenzie
/s/J D McKenzie

Acting, Chief, Solid Minerals Branch

Encl.

- 1- Table of Royalties Due
- 2- Form 1842-1

cc: PFO w/o Encl.

Utah Division of Oil, Gas, and Mining (Attn. Daron Haddock), 1594 West North Temple, Suite 1210, Box 145801, Salt Lake City, UT 84114-5801, w/o Encl.

Hiawatha Coal Company, P.O. Box 1240, Huntington, UT, 84528, with Encl. 1

Kenneth Ruston (CW Mining Trustee): c/o Christopher Jones, Attorney for Bankruptcy Trustee, C.W. Mining Company, City Center 1, Suite 900, 175 East 400 South, Salt Lake City, UT, 84111-2357, w/o Encl.

Files - UTU-38727
UTU-61049

Chron File

NonRoyaltynonpayment7-27-09SP-SA

Enclosure 1

Table of Royalties Due

Invoice Type	Date	Item ID	Amt Remaining	Due Date
INV	6/8/2009	INT1000056738	\$130.74	7/13/2009
UTU 61049	6/11/2009	PAR31142	\$120,690.89	6/1/2009
Monthly Total	6/11/2009	PAR31155	\$235,752.13	6/30/2009
Grand Total Owed			\$356,573.76	